

SUBPART 5301.90--CLEARANCE PROCESS

5301.9000 Scope and applicability.

(a) This subpart establishes clearance requirements for negotiated contract actions supporting PEO and DAC Programs. Any MAJCOM FAR supplements to this subpart that apply to PEO and DAC Programs must comply with 5301.9004(f)(2).

(b) Clearance requirements for Other Contracting (see 5302.101) and for all sealed bidding actions are prescribed in MAJCOM FAR Supplements. MAJCOMs shall use the policy (see 5301.9001), definitions (see 5301.9002), standards (see 5301.9003), and application (see 5301.9005-1 5301.9005-2, and MAJCOM FAR supplements for thresholds) in this subpart. Beyond this common baseline, however, MAJCOMs may prescribe clearance procedures for Other Contracting that meet the individual command's needs.

5301.9001 Policy.

The objectives of the Air Force clearance process are to ensure that:

- (a) Competitive solicitations effectively implement approved acquisition strategies; and
- (b) Negotiations/contracts result in fair and reasonable business arrangements and are consistent with laws, regulations, and policies.

5301.9002 Definitions.

“Begin negotiations” means, for the purpose of noncompetitive acquisitions using traditional pricing, starting discussions with an offeror for the purpose of reaching agreement on all aspects of the proposal. Initiation of audits and fact-finding necessary to evaluate the proposal and develop the Government's negotiation objective do not constitute negotiations.

“Clearance” means:

- (1) For competitive acquisitions, approval to:
 - (i) Award without discussions; or
 - (ii) Request final proposal revisions in accordance with FAR 15.307.
- (2) For noncompetitive acquisitions, approval to:
 - (i) Begin negotiations if traditional pricing is used; or
 - (ii) Conclude negotiations if IPT pricing is used.

“Competitive acquisition” means any action that does not meet the definition in this subpart of “noncompetitive acquisition.”

“Conclude negotiations” means, for the purpose of noncompetitive acquisitions, reaching final agreement with the contractor on price and terms and conditions associated with the contemplated contract action.

“Integrated Product Team (IPT) pricing” means the process of concurrent requirements refinement, proposal development, fact-finding, and preliminary agreement between the Government and contractor in a noncompetitive acquisition. In this process, the Government and contractor IPT members communicate in an on-going, structured manner from early planning stages through iterative model contract development and review of related cost or pricing data.

“Noncompetitive acquisition” means a “sole source acquisition” as that term is defined in FAR 6.003.

“Request for Clearance (RFC)” means a memorandum, with appropriate attachments, prepared by the contracting officer to obtain clearance.

“Review” means analysis of records pertaining to the contract action to ensure that it meets applicable standards established in 5301.9003. The review is performed by individuals assigned the responsibility by the Clearance Reviewing Authority, and involves reviewer interaction with the contracting officer, program office personnel, and other acquisition personnel.

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“Traditional pricing” means, for the purpose of noncompetitive acquisitions, the serial process of the Government defining the requirements and requesting a proposal; a contractor submitting a proposal to the Government; followed by Government review/evaluation of the proposal in order to establish an objective in preparation for negotiations.

5301.9003 Clearance standards.

Each clearance request, together with the supporting source documents, must clearly establish that:

- (a) The negotiation objective or Government position is fair and reasonable in terms of both price and contract terms and conditions; and
- (b) The contemplated business arrangement and the contract to be awarded are sound and in compliance with laws, regulations, and policies.

5301.9004 Roles and responsibilities.

- (a) **Principal Deputy Assistant Secretary (Acquisition & Management) (SAF/AQ):**
 - (1) Establishes and maintains the clearance process;
 - (2) Directs actions to ensure the process achieves its objectives and is subject to continuous process improvement.
- (b) **Deputy Assistant Secretary (Contracting) (SAF/AQC):**
 - (1) Implements SAF/AQ direction, prescribing the clearance process in this subpart;
 - (2) Periodically assesses the policies and thresholds for review and approval requirements; and
 - (3) Makes recommendations to SAF/AQ.
- (c) **Clearance Approving Authority (CAA).** The approving authority shall:
 - (1) Ensure the objectives stated in 5301.9001 are achieved in each action approved; and
 - (2) Consider the request for clearance and, if the request meets established standards, approve the request by signing a clearance document (see Attachment 5301-1 for format).
- (d) **Clearance Reviewing Authority (CRA).** The reviewing authority shall:
 - (1) Be the primary advisor to the approving authority with regard to the specific RFC and ensure that the approving authority has the information needed to make an informed decision; and
 - (2) Review each RFC to ensure the action for which clearance is requested meets 5301.9003 standards. The reviewing authority shall identify deficiencies, assist in resolution, and advise the approving authority as appropriate.
- (e) **Contracting officer.** The contracting officer is:
 - (1) A member of the program manager’s team in planning the acquisition and managing its contractual aspects;
 - (2) The leader of the team responsible for negotiating the contract price, terms, and conditions, consistent with FAR 15.405(a); and
 - (3) The individual responsible for requesting clearance consistent with this subpart.
- (f) **MAJCOMs.**
 - (1) The MAJCOM shall implement the clearance process for PEO/DAC Programs by:
 - (i) Performing solicitation reviews and functioning as the clearance reviewing authority. In AFMC, the headquarters shall provide clearance support to the PEOs and DACs in accordance with Attachment 5301-2;
 - (ii) Ensuring that the review function facilitates the award of contracts that satisfy user needs and effectively implement program management directives; and
 - (iii) Ensuring that advice, assistance, and clearances are consistent with laws, regulations, and policies.
 - (2) Any clearance procedures for PEO/DAC Programs established by MAJCOMs shall:
 - (i) Provide an independent assessment of proposed contractual actions and enable management to achieve the objectives of the clearance process stated in 5301.9001; and
 - (ii) Be consistent with 5301.9006 through 5301.9009.
- (g) **Resolving disagreements.** Disagreements arising on aspects of a clearance shall be resolved at the lowest possible level. If resolution cannot be reached at a lower level, promptly elevate the matter to the next appropriate level. If not resolved at any lower level, SAF/AQ shall decide the matter.

5301.9005 General requirements.**5301.9005-1 Contract actions requiring review and approval.**

The contract actions identified below require clearance:

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- (a) An action intended to result in award of a negotiated contract or modification of any contract. Actions that create an undefinitized contractual action (UCA), undefinitized change order, or undefinitized long lead contract are excluded (see 5317.74 for UCA approval authorities);
- (b) An action intended to result in definitization of a UCA, an undefinitized change order, or an undefinitized long lead contract, or in the pricing of previously unpriced actions;
- (c) An action intended to result in issuance of a modification implementing a unilateral price determination;
- (d) Priced orders issued under basic ordering agreements;
- (e) An action intended to result in the exercise of an option if option exercise is not in strict accordance with the previously approved pricing arrangement or other contract terms and conditions; and
- (f) Other individual actions specified by SAF/AQ.

5301.9005-2 Determining the value of contract actions.

Determine the thresholds in Attachment 5301-2 as follows:

- (a) Compute the total of the value of the basic portion of the instant acquisition plus:
 - (1) Any options (including those that are priced only on a not-to-exceed basis). For example, a basic contract for \$45 million with an option for \$40 million would exceed a threshold of \$50 million;
 - (2) Sums for provisioning. For example, a basic \$49 million contract for a system, with an additional \$1.5 million obligated or specifically committed for provisioning, would exceed a threshold of \$50 million; and
 - (3) The value of contingencies, such as ceilings, award fee, and performance incentives. For example, a FPIF contract with target price of \$47 million and ceiling of \$52 million or a multiyear contract where the value of the first program year is \$15 million and the value of all program years is \$60 million would exceed a threshold of \$50 million.
- (b) Use the sum of the absolute values of the increases and decreases and not the net amount for modifications implementing both increases and decreases to the contract price. For example, an increase of \$45 million and a decrease of \$10 million would give the modification a "value" of \$55 million.
- (c) Use the value of the contract being modified:
 - (1) when the action, whether or not considered to be within the general scope of the contract, significantly alters (e.g., restructures or rephases) the contract; and/or
 - (2) when the action involves the resolution of claims as a significant part of the consideration for a revised delivery schedule or reduced requirements.
- (d) Use the cumulative value of all potential contracts in competitive acquisitions when multiple awards are contemplated. For example the following multiple award actions would exceed a threshold of \$50 million:
 - (1) Three individual awards resulting from a single solicitation/requirement, where each contract is for a separate item in the solicitation and each contract is valued at \$20 million.
 - (2) Two individual awards resulting from a single solicitation/requirement, where each contract is for a partial quantity of an item and one award is valued at \$20 million and one award is valued at \$35 million.
 - (3) Four individual awards resulting from a single solicitation/requirement with a value of \$100 million (even if a value of \$25 million is established for each individual contract), where the purpose is to issue identical contracts to all awardees.
- (e) Use the maximum potential value of the contract if a Best Estimated Quantity (BEQ) applies for evaluation and award purposes.
- (f) For noncompetitive clearance, use the negotiation objective inclusive of any requested settlement range. For competitive clearance, use the highest proposed amount in the competitive range.
- (g) Requirements shall not be broken down into more than one purchase transaction for the purpose of avoiding clearance at a higher echelon.

5301.9005-3 Delegation of clearance authorities.

- (a) Within AFMC, clearance authorities for PEO/DAC Programs are delegated to the individuals occupying the positions designated as the reviewing or approving authority in Attachment 5301-2. These authorities may not be redelegated except as specifically indicated in Attachment 5301-2.
 - (1) Where Attachment 5301-2 designates "AFMC/PK" as the reviewing authority, this authority may be exercised by the Director of Contracting or the Deputy Director of Contracting.
 - (2) The CRA for actions under \$500 million is the SCCO or BOCO where the contracting is actually being accomplished, even if the SM or DAC is located elsewhere.

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(3) When clearance authority is delegated by letter, modify the wording in the clearance document as appropriate. For example, if the PEO delegates clearance approval, then paragraph 1 of Attachment 5301-1 should read substantially as follows:

“As the clearance approving authority delegated by PEO letter dated [insert date],...

I hereby approve the reference (b) request.”

(b) For PEO Programs managed outside AFMC, the CAA is the PEO. The CRA for these programs is the MAJCOM Director of Contracting;

(c) Commanders of procuring activities identified in 5306.304(a)(2) not specifically delegated authority in (a) and (b) above, but who have a need for clearance authority, shall submit a request for such authority to SAF/AQC through SAF/AQCS.

(d) For PEO/DAC Program contract actions identified in paragraph (a) that have a dollar value less than \$5 million:

(1) BOCOs may delegate solicitation review responsibility and CRA no lower than the contracting officer.

(2) SMs may delegate noncompetitive CAA no lower than the contracting officer or an equivalent level in the program management chain.

(3) Formal procedures in 5301.9006 through 5301.9009 do not apply.

5301.9005-4 Relationship between the clearance and formal source selection (Appendix AA, Appendix BB) processes.

In formal source selections, the clearance process occurs during the course of the on-going source selection process. The following relationships apply:

(a) The source selection authority (SSA) performs the role and responsibilities of the CAA, except when SAF or SAF/AQ is the SSA for a PEO/DAC Program acquisition. In those cases, the SSAC chairperson, normally the PEO/DAC, shall be the CAA, unless the SSA specifies otherwise.

(b) Clearance is a necessary aspect of the decision to either:

(1) Issue a request for final proposal revisions; or

(2) Award without discussions.

5301.9006 Solicitation review.

(a) Competitive solicitations must be reviewed if the resulting contract action is expected to require clearance in accordance with 5301.9005-1. Solicitation amendments must be submitted for review if substantive changes are made, e.g., significant changes to Sections B, H, L, M. The reviewing authority for the contemplated clearance prescribed in Attachment 5301-2 shall be the reviewing authority for the solicitation. The CRA reviewer is responsible for performing the review and providing recommendations to the contracting officer.

(b) The contracting officer shall send a request for review, the solicitation, and supporting file to the reviewer before issuance. Review is required prior to release unless early release is authorized by the SSA or J&A approval authority. In such cases, the solicitation/supporting file is to be submitted to the reviewer concurrent with issuance. At a minimum, the supporting file consists of copies of the following documents:

(1) AP/SAMP;

(2) J&A (limited sources);

(3) Source Selection Plan/Technical Evaluation Plan (if applicable);

(4) Other applicable tabs of the AF Form 3019 (e.g., purchase request, determinations, synopsis, award fee plan).

5301.9007 Content of the RFC.

(a) The contracting officer shall request the clearance review in a memorandum addressed to the CRA. The memorandum shall identify the approval being requested (e.g., approval to award without discussions, approval to begin negotiations) and shall include any pertinent acquisition information the contracting officer believes should be highlighted.

(b) The RFC shall include:

(1) For competitive acquisitions:

(i) The proposed award document;

(ii) Determination of adequate price competition in accordance with

FAR 15.403-1(c)(1), if applicable;

(iii) The proposed request for final proposal revisions, if applicable;

(iv) Official contract file including all applicable file items in the AF Form 3019, Contract File Content Checklist;

(v) Source selection documentation, as applicable.

(2) For noncompetitive acquisitions:

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- (i) The proposed award document; if the contract action involves a contract modification, include a copy of the contract (conformed, if appropriate);
- (ii) A preliminary price negotiation memorandum (PNM), in either standard narrative or briefing format. If a briefing format is used, it shall combine the briefing content requirements referenced in 5301.406-1(c) and FAR 15.406 requirements. When a briefing format is used, a review of the final PNM by the CRA reviewer is required prior to award (see 5301.9008(c)(3)). The preliminary PNM will comply with the requirements of FAR 15.406-1 to the extent the required information is available at the time the RFC is submitted. It must set forth a description of the contractor's proposed position, any field pricing recommendations, and the Government's negotiation objective;
- (iii) Official contract file including all applicable file items in the AF Form 3019, Contract File Content Checklist.
- (iv) Presentation of clearance request in accordance with 5301.9009.

5301.9008 Clearance procedures.

(a) General.

- (1) The contracting officer shall send the RFC to the CRA reviewer. The CRA reviewer will work with the contracting officer to correct any deficiencies in the package. The CRA will provide a recommendation to the CAA based on the CRA reviewer's analysis.
- (2) The approving authority shall use the RFC and the reviewing authority's findings in deciding to approve the RFC, approve it with conditions, or disapprove it.
 - (i) The decision to approve the RFC or approve with conditions shall be documented by the approving authority signing a clearance document. The contracting officer shall document the contract file as to the specific actions taken to satisfy each condition.
 - (ii) The decision to disapprove the RFC shall be documented by the approving authority signing a letter to the contracting officer; the letter shall establish a date for submittal of the revised RFC and identify the issues that must be resolved before submittal.
- (3) If clearance approval/approval with conditions is granted, no further communication with the clearance reviewing and approving authorities is required unless there is a need for a revised clearance. If there is doubt as to whether a revised clearance is needed, contact the CRA reviewer. Examples of circumstances that would require a revised clearance are:
 - (i) Exceeding the approved negotiation parameters;
 - (ii) Changing contract type/share ratio;
 - (iii) A major change in the quantity or the nature of the Government's requirements;
 - (iv) A major change in a contract term or condition (e.g., a warranty), if that term or condition was considered critical by the CAA when the RFC was approved;
 - (v) The addition of a significant term or condition;
- (4) If a revised clearance is needed, the contracting officer shall secure a revised clearance from the CAA, through and with the advice of the CRA as to form and method.
- (5) As part of the clearance review process, the CRA may impose a condition on the approval to require a follow-up review by the CRA reviewer prior to document distribution.

(b) Competitive acquisitions.

- (1) For formal source selections, submit the RFC to award without discussions after the source selection team has arrived at a consensus that award without discussions is appropriate. The clearance review shall be accomplished before approval to award without discussions is secured from the SSA. For other competitive actions, submit the RFC after evaluation of proposals and contracting officer determination that award without discussions is appropriate.
- (2) When requesting approval to issue a request for final proposal revisions for any competitive action, submit the RFC when discussions are concluded.

(c) Noncompetitive acquisitions.

- (1) When traditional pricing is used, the RFC shall be submitted prior to the beginning of negotiations with the contractor. When IPT pricing is used, the RFC shall be submitted prior to concluding negotiations. Use of an IPT pricing approach presumes early and continuing involvement of the CRA reviewer for value-added insight during the process and to surface issues to the CRA and CAA, if necessary, prior to the formal RFC.
- (2) No additional review or approval is required after clearance approval (or revised clearance approval) prior to contract award if the following criteria are met:
 - (i) The RFC included a preliminary PNM in standard narrative format.

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(ii) The final settlement does not include revised or additional special contract requirements from those contemplated at time of clearance review and approval.

(iii) No substantial deficiencies were noted by the CRA reviewer during clearance review (see (a)(5) above).

(3) If any of the above criteria are not satisfied, a subsequent review by the CRA reviewer is required before award can be made. For criteria (2)(i) and (2)(ii), the review shall be limited to the final PNM and/or the revised portions of the award document, as applicable. If the criterion in (2)(iii) is not met, the entire official contract file shall be submitted for review. Any requirements for subsequent CRA review, if known at the time of clearance review, shall be captured in a condition on the clearance document (reference paragraph 3 and Note 4, Attachment 5301-1). Section 5301.9004(g) applies to subsequent CRA reviews.

5301.9009 Presentation of clearance request.

(a) **General.** The clearance request presentation shall be provided in the form of a briefing or written report as directed by the CAA.

(1) When a clearance briefing is presented, the CRA and/or the CRA reviewer may **attend**.

(2) **Conditions noted by the CRA must be clearly provided to the CAA.**

(b) **Competitive acquisitions.** For formal source selections, the source selection briefing prepared for the SSA that address the status of the source selection and the approval being sought (award without discussions or issuance of request for final proposal revision) may serve as the presentation for clearance approval.

(c) **Noncompetitive acquisitions.** Guidance on presentation content and sample briefing charts can be found in the Contracting Toolkit on the SAF/AQC Home Page of the World Wide Web at address:

<http://www.safaq.hq.af.mil/contracting>

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Attachment 5301-1 Format for Clearance (Approval to Proceed)

For Official Use Only

Negotiation Sensitive or

Source Selection Information - See FAR 3.104

Clearance

Reference: (a) Clearance Number _____ (1)
(b) Request for Clearance dated _____

Subject: _____ (2)

1. As the clearance approving authority designated by AFFARS Attachment 5301-2, and based on the clearance reviewing authority's recommendation to me, I hereby approve the reference (b) request.

2. The Air Force negotiating team is authorized to negotiate a settlement not to exceed (3) \$_____, the total objective of \$_____ plus _____%, without additional approval by this office.

3. Conditions on this approval are: _____ (4)

(Signature/Date)

Name:

Title:

Office Symbol:

Notes:

(1) Enter identifying number (assigned by the CRA reviewer).

(2) Enter same subject as on the RFC.

(3) Enter the range in which the approving authority will forego personal involvement in the approval of a revised objective. This paragraph may be modified as appropriate. It only applies to noncompetitive acquisitions; omit for competitive acquisitions.

(4) List any conditions on the clearance (see 5301.9008(a)(2)(i), 5301.9008(a)(5) and 5301.9008(c)(2) and (3)). If there are no conditions, omit this paragraph.

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**ATTACHMENT 5301-2 REVIEW AND APPROVAL THRESHOLDS FOR AFMC
REVIEW/APPROVAL AUTHORITIES
PEO/DAC PROGRAMS**

AUTHORITY LEVEL (1)

<u>ESTIMATED VALUE</u>	<u>RFP/CRA</u>	<u>CAA</u>	
		<u>COMP</u>	<u>NONCOMP</u>
< \$50M	BOCO	SSA (2)	SM (3)
≥ \$50M to < \$500M	SCCO (4)	SSA (2)	PEO/DAC (5)
≥ \$500M	AFMC/PK (6)	SSA (2)	PEO/DAC (5)

NOTES:

- (1) This attachment applies under \$5 million absent specific delegations established pursuant to 5301.9005-3(d).
- (2) In formal source selection actions (Appendix AA, Appendix BB), this is the individual designated as the source selection authority and responsible for the conduct of the entire source selection process; 5301.9005-4 applies. For other competitive actions, this is the individual in charge of selecting the source, e.g., the contracting officer.
- (3) The SM may delegate noncompetitive clearance approving authority to the SSM or the DSM.
- (4) The SCCO may delegate these authorities to the BOCO on a case-by-case basis.
- (5) The PEO/DAC may delegate noncompetitive clearance approving authority to the SM on a case-by-case basis. The PEO/DAC shall notify the designated CRA when clearance approval is delegated.
- (6) AFMC/PK may delegate these authorities to the SCCO on a case-by-case basis. AFMC/PK shall notify the PEO/DAC of such delegation.

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